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UNCLAS SECTION 01 OF 02 TASHKENT 000239

SIPDIS

SENSITIVE

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TAGS: [ECON](#) [ETRD](#) [KIPR](#) [UZ](#)

SUBJECT: SPECIAL 301 REVIEW RECOMMENDATION

REF: A) STATE 9475, B) TASHKENT 119

11. (SBU) Summary: Uzbekistan has taken modest enforcement measures on intellectual property rights, including targeting the largest purveyor of pirated music in the country (ref B). This builds on the July 2006 adoption of a "Law on Copyright and Related Rights," which the USG determined adhered to international conventions and Trade Related Aspects of Intellectual Property Rights (TRIPS). Uzbekistan acceded to the Berne Convention in 2005 but has clarified its reservation to Article 18 and provided additional information on its intended course of action. Uzbekistan's Copyright Agency continues to receive technical assistance from Microsoft to combat pirating.

12. (SBU) Post recommends that Uzbekistan remain on the Special 301 watch list but that General System of Preferences (GSP) privileges remain in place. Post additionally recommends the U.S. Department of Commerce provide technical assistance to the Uzbek government, to assist with concerns on Article 18 of the Berne Convention. End summary.

#### COPYRIGHT ENFORCEMENT STRIDES

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13. (SBU) Uzbekistan has taken modest steps to implement its 2006 "Law on Copyright and Related Rights." In January 2008, the national copyright authority (The Republican Copyright Agency), in cooperation with the national tax service, seized over 100,000 pirated CDs from the Nirvana music store chain and 10,000 CDs from smaller vendors. Most of the Nirvana chain's 18 stores remain closed. The action was prominently covered in the local press (ref B).

14. (SBU) The Deputy Director General of the Copyright Agency, Hafizov Abduazizovich, told Embassy officers that the Nirvana raids were meant as a signal to vendors of pirated goods. He also explained ongoing technical assistance from Microsoft's Almaty office (which reports to MS Moscow) to help develop effective strategies to combat piracy. He explained that, as part of its cooperative effort with Microsoft, the Copyright Agency had agreed to prevent pirated Microsoft software sales in Tashkent. Our own independent sources verify that pirated MS software is still readily available in Tashkent.

15. (SBU) Abduazizovich explained that a major problem in piracy enforcement is the lack of "reasonably priced" goods for local markets. He added that in Uzbekistan the problem is compounded by nearly complete lack of any licensed music or software. Embassy officers have confirmed that some outlets do exist for licensed purchases, but these are clearly not in line with demand. Comment: The problem Abduazizovich describes is clearly not unique to Uzbekistan. End comment.

Change since last year: Modest

16. (SBU) The only significant difference noted from last year's enforcement effort was the Nirvana raid. That raid was significant because of its size. Otherwise, occasional small raids have reportedly been conducted, and the Microsoft technical assistance program continues.

Sale, not production, of pirated goods

17. (SBU) Uzbekistan is a market for packaged pirated goods, most of them from outside the country. It is not a large producer of packaged pirated goods, though vendors do produce one-off copies of software and music on demand. Losses to owners of copyrights are probably relatively small, as Uzbek consumers' purchasing power is severely limited, and few licensed goods are available.

Berne Convention Article 18

18. (SBU) Copyright Agency Deputy Director Abduazizovich explained to Embassy officers that the Government of Uzbekistan's objection to Article 18 of the Berne Convention is not as inflexible as we believed. He explained that the primary Uzbek concern is for pre-existing artistic works that were made during Soviet times and may have infringed on copyrights that were not recognized here. He explained that such works could not simply be destroyed. He said the Government would like to implement Article 18 gradually but needed to find a manner of doing so. He also said that Uzbekistan would have to find a way to do this, in order to eventually join the

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WTO. Comment: Embassy officers are not experts on IPR law, but we felt Abduazizovich might be leading us along on this one. Nonetheless, he does have a point regarding the difficulty of implementation of this provision as well as the necessity of eventually doing so in order to join WTO. It may be worthwhile for Department of Commerce or other suitable agency to offer technical assistance to the Uzbek Government. End comment.

KEEP UZBEKISTAN ON WATCH LIST; MAINTAIN GSP PRIVILEGES

19. (SBU) The Government of Uzbekistan faces a challenge which China, and others before it, have also faced. The Copyright Agency at this point is sparsely funded and staffed. Technical capacity is low, and few officials outside the Copyright Agency have been able to discuss the problem in detail. Vendors of pirated goods are by and large the only option most consumers have. What is encouraging, frankly, is the scale of the Nirvana raid. In Uzbekistan, this is often, though not always, indicative of a calculated decision at a senior ministerial level.

10. (SBU) Uzbekistan should remain on the Special 301 Watch List, but GSP privileges should remain in place.

NORLAND